

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF NEBRASKA, et al.,

Petitioners,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Respondents.

No. 24-1129 (and consolidated
case No. 24-1133)

**UNOPPOSED MOTION OF PUBLIC INTEREST ORGANIZATIONS
TO INTERVENE IN SUPPORT OF RESPONDENTS**

Pursuant to Federal Rule of Appellate Procedure 15(d) and Circuit Rule 15(b), Alliance of Nurses for Healthy Environments, American Lung Association, American Public Health Association, Appalachian Mountain Club, Clean Air Council, Environmental Defense Fund, Environmental Law & Policy Center, Natural Resources Defense Council, Public Citizen, and Sierra Club (collectively, Movants) request leave to intervene in support of Respondents U.S. Environmental Protection Agency et al. in the above-captioned challenge to EPA’s final action published as *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles – Phase 3*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (Rule), as well as in all other petitions challenging the Rule, except for any petitions that may be filed challenging the Rule as insufficiently stringent.

As explained below, this Court should grant leave to intervene. First, Movants' request is timely because it is submitted within 30 days of the filing of the above-captioned petition. Fed. R. App. P. 15(d). Second, Movants possess legally protectable interests in the dispositions of any petitions for review of the Rule, which may as a practical matter impair those interests. *Cf.* Fed. R. Civ. P. 24(a)(2). Third, no existing party adequately represents Movants' interests in this litigation. *Cf. id.*

Petitioners in Case No. 24-1129 (State of Nebraska et al.) and Case No. 24-1133 (Warren Peterson et al.) take no position on this motion. Respondents do not oppose this motion.

BACKGROUND

A. Statutory and Regulatory Background

EPA has a long history of regulating greenhouse gas emissions from heavy-duty vehicles. To attain its “primary goal” of “pollution prevention,” 42 U.S.C. § 7401(c), the Clean Air Act directs EPA to prescribe “standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles ..., which in [the agency’s] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare,” *id.* § 7521(a)(1). In 2009, EPA found that greenhouse gases endanger public health and welfare and that new motor vehicles and new motor vehicle engines, including heavy-duty

trucks and engines,¹ cause or contribute to that endangerment. 74 Fed. Reg. 66,496 (Dec. 15, 2009). That endangerment finding directly triggered EPA’s duty to establish standards limiting greenhouse gas emissions from new trucks.

In 2011, EPA finalized the first phase of its greenhouse gas emissions standards program for new trucks and engines, which began in model year 2014. 76 Fed. Reg. 57,106 (Sept. 15, 2011). Under this flexible, performance-based program, manufacturers are able to achieve standards through a mix of technologies and optional credit-trading. *See* 89 Fed. Reg. at 29,444. In 2016, EPA finalized more stringent “Phase 2” standards. 81 Fed. Reg. 73,478 (Oct. 25, 2016). The Phase 2 standards commenced for most trucks and engines in model year 2021, with increases in stringency in model years 2024 and 2027.

B. The Rule

In 2023, EPA proposed to strengthen greenhouse gas emissions standards for model year 2027–2032 trucks. 88 Fed. Reg. 25,926 (Apr. 27, 2023). Many of the Movants submitted comments urging EPA to finalize standards that would protect public health and welfare from harmful truck emissions as the agency had

¹ Unless otherwise specified, this Motion uses the term “truck” in a general way to refer to all categories of heavy-duty highway vehicles regulated by the Rule, which includes a range of vehicles above a certain weight class, from shuttle buses, to buses and vocational trucks (such as refuse collection trucks, street sweepers, and school buses), to tractor-trailer or “semi” trucks that move freight long distances. *See* 89 Fed. Reg. at 29,444.

proposed.²

In April 2024, EPA finalized revised greenhouse gas emissions standards that phase in over model years 2027–2032. 89 Fed. Reg. 29,440 (Apr. 22, 2024). The standards are technology-neutral and achievable with a range of existing technologies, including internal combustion engine, hybrid, and battery electric vehicle technologies. *Id.* at 29,452–53. Stronger standards for *light* heavy-duty vocational trucks (like airport shuttle buses) and *medium* heavy-duty vocational trucks (like school buses) begin in model year 2027 and increase in stringency through model year 2032, at which time the standards are 60% and 40% stronger than the prior Phase 2 standards respectively. *Id.* at 29,450. Stronger standards for *heavy* heavy-duty vocational trucks (like dump trucks and refuse collection trucks) do not begin until model year 2029 and increase in stringency through model year 2032, at which time the standards are 30% stronger than the prior standards. *Id.*

EPA also finalized stronger standards for the cabs of tractor-trailer (or “semi”) trucks. Standards for day cabs (which are used to move loads over shorter

² Comments of Center for Biological Diversity, Clean Air Task Force, Environmental Law and Policy Center, National Parks Conservation Association, Public Citizen, Inc., & Sierra Club (June 16, 2023), Docket ID No. EPA-HQ-OAR-2022-0985-1640; Comments of Environmental Defense Fund (June 16, 2023), Docket ID No. EPA-HQ-OAR-2022-0985-1644; Comments of Moving Forward Network, Earthjustice, Natural Resources Defense Council, & Union of Concerned Scientists et al. (June 16, 2023), Docket ID No. EPA-HQ-OAR-2022-0985-1608; Comments of American Lung Association, et al., (June 16, 2023), Docket ID No. EPA-HQ-OAR-2022-0985-1516.

distances) begin in model year 2028 and increase in stringency through model year 2032, when the standards are 40% stronger than the previous Phase 2 standards. *Id.* Standards for sleeper cabs (which are used to haul freight over longer distances) begin in model year 2030 and increase in stringency through model year 2032, when the standards will be 25% stronger than previous standards. *Id.*

STANDARD FOR INTERVENTION

Federal Rule of Appellate Procedure 15(d) states that a motion to intervene in defense of an agency action “must contain a concise statement of the interest of the moving party and the grounds for intervention.” That rule does not specify any standard for intervention, but because “the policies underlying intervention” in district courts “may be applicable in appellate courts,” *Int’l Union v. Scofield*, 382 U.S. 205, 217 n.10 (1965), this Court may look to Federal Rule of Civil Procedure 24 for guidance, *cf. Mass. Sch. Of Law at Andover, Inc. v. United States*, 118 F.3d 776, 779 (D.C. Cir. 1997). Rule 24 provides that leave to intervene be granted to a movant who timely “claims an interest relating to the ... transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” Fed. R. Civ. P. 24(a)(2). A court may also grant leave to intervene to anyone who makes a “timely motion” and who

has “a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1).

STATEMENT OF INTEREST

Movants’ clear interest in the disposition of this action supports their request for intervention to defend the Rule. Movants are nonprofit, public-interest organizations committed to protecting their members from the harmful effects of air pollution, including effects traceable to climate change.³ Movants have consistently advocated for reducing emissions of climate-warming and health-harming pollutants from the transportation sector,⁴ which is the nation’s largest source of climate-destabilizing pollution, 89 Fed. Reg. 29,442. As described further below, Movants have protectable interests in shielding their members from climate and air pollution injuries that will result if the Rule is vacated.

³ See Decl. of John Stith ¶¶ 5, 9–10 (Environmental Defense Fund); Decl. of Gina Trujillo ¶¶ 3–6 (Natural Resources Defense Council); Decl. of Robert Weissman ¶¶ 4–5 (Public Citizen); Decl. of Katherine Garcia ¶¶ 3–5, 8–9 (Sierra Club); Decl. of Howard A. Learner ¶¶ 6–7, 11 (Environmental Law & Policy Center); Decl. of Harold Wimmer ¶¶ 3–4, 7–9 (American Lung Association); Decl. of Nicole Zussman ¶¶ 4, 7–8, 10–11 (Appalachian Mountain Club); Decl. of Cara Cook ¶¶ 5–6 (Alliance of Nurses for Healthy Environments); Decl. of Georges C. Benjamin ¶¶ 6, 9–10 (American Public Health Association); Decl. of Annie Fox ¶¶ 5–8 (Clean Air Council).

⁴ See, e.g., Garcia Decl. ¶¶ 6–7; Trujillo Decl. ¶ 6; Weissman Decl. ¶ 2; Wimmer Decl. ¶ 5; Fox Decl. ¶¶ 8, 10; Cook Decl. ¶ 7; Benjamin Decl. ¶ 7; Learner Decl. ¶¶ 12–14; Stith Decl. ¶¶ 10–11.

If it is required, Movants likewise have standing to intervene in this action.⁵ Standing to intervene as a defendant is regularly shown “where a party benefits from agency action, the action is then challenged in court, and an unfavorable decision would remove the party’s benefit.” *Crossroads Grassroots Policy Strategies v. Fed. Election Comm’n*, 788 F.3d 312, 316 (D.C. Cir. 2015). As described in more detail below, Movants’ members will be injured if the Rule is vacated and accordingly would have standing to defend the Rule in their own rights. Movants’ members include people who live, work, recreate, and own property in areas that experience the effects of climate change⁶ and in areas where the Rule most directly affects local air pollution levels;⁷ and people with professions that benefit from the proliferation of clean trucks that conform to

⁵ The Supreme Court has called into question whether respondent-intervenors need to establish standing. *See Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1951 (2019). However, as this Court has continued to require that respondent-intervenors establish standing, *see, e.g., Yocha Dehe v. United States Dep’t of the Interior*, 3 F.4th 427, 430 (D.C. Cir. 2021), Movants explain herein why they have standing to defend the Rule.

⁶ Decl. of Paul Jeffrey ¶¶ 2–8, 14–15 (Natural Resources Defense Council); Decl. of Elizabeth Cobble ¶¶ 1, 7–8, 14 (Environmental Defense Fund); Decl. of Rita Tower ¶¶ 2–6, 9–11, 13 (Natural Resources Defense Council); Decl. of David Hill ¶¶ 8–10 (American Lung Association); Decl. of Julia Khorana ¶¶ 11–13 (Appalachian Mountain Club); Decl. of Gloria Barrera ¶ 9 (Alliance of Nurses for Healthy Environments); Decl. of Nsedu Obot Witherspoon ¶¶ 8–11 (American Public Health Association); Decl. of Eleanor Lustig ¶¶ 8–10 (Clean Air Council); Decl. of Kaiba White ¶¶ 3–4 (Public Citizen).

⁷ Cobble Decl. ¶¶ 1–2, 4, 7–8, 11; Lustig Decl. ¶ 11; Hill Decl. ¶ 11; Barrera Decl. ¶ 11; Witherspoon Decl. ¶ 13; Decl. of Elizabeth Casman ¶¶ 3, 11 (Natural Resources Defense Council); Decl. of Mary Ann Ruiz ¶¶ 5–7 (Sierra Club).

EPA's standards.⁸ If this Court vacates the Rule, Movants' members will suffer economic, health, recreational, and aesthetic injuries from worsened effects of climate change, increased air pollution, and diminished deployment of lower-polluting trucks. Movants' members therefore satisfy the injury-in-fact, causation, and redressability requirements of Article III standing. *See Nat. Res. Def. Council v. Wheeler*, 955 F.3d 68, 76–77 (D.C. Cir. 2020) (finding that Movant organization had standing to challenge EPA rule based on increased greenhouse gas emissions and effects of climate change on a member's property); *Competitive Enter. Inst. v. NHTSA*, 901 F.2d 107, 112–13 (D.C. Cir. 1990) (holding that consumers who experienced a reduced opportunity to purchase certain types of vehicles had standing to challenge fuel-economy regulation).

Movants also satisfy the remaining requirements of associational standing. An organization may defend agency action on its members' behalf when: “(1) at least one of its members would have standing to [defend] in his or her own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the [defense] asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Hearth, Patio & Barbecue Ass'n v. EPA*, 11 F.4th 791, 802 (D.C. Cir. 2021) (cleaned up). The interests Movants seek to protect by participating in this case are germane to their organizational purposes of

⁸ Decl. of Douglas Snower ¶¶ 5–8 (Environmental Law & Policy Center).

advocating for reductions of greenhouse gases and criteria air pollutants from the transportation sector and increasing the availability of lower-polluting trucks. *See Chesapeake Climate Action Network v. EPA*, 952 F.3d 310, 318 (D.C. Cir. 2020) (finding members' interests in reducing their exposure to air pollutants germane to Movant the Sierra Club's organizational purposes); *Nat'l Lime Ass'n v. EPA*, 233 F.3d 625, 636 (D.C. Cir. 2000) (characterizing germaneness requirement as "undemanding; mere pertinence between litigation subject and organizational purpose is sufficient" (cleaned up)). And Movants' defense does not require participation of their members because Petitioners will raise questions of law or fact that will be resolved on the administrative record without consideration of those members' individual circumstances. *See Ctr. for Sustainable Econ. v. Jewell*, 779 F.3d 588, 597–98 (D.C. Cir. 2015).

This Court has often held that Movants and similarly situated organizations have standing to protect their members from pollution that adversely affects those members, *see, e.g., Nat. Res. Def. Council v. EPA*, 755 F.3d 1010, 1016–17 (D.C. Cir. 2014), and to ensure that their members' desired automobiles are not "difficult to obtain," *Weissman v. Nat'l R.R. Passenger Corp.*, 21 F.4th 854, 860 (D.C. Cir. 2021); *see also Ctr. for Auto Safety v. NHTSA*, 793 F.2d 1322, 1323–24 (D.C. Cir. 1986). The same reasoning applies here.

A. Climate Injuries

Movants' members will suffer a variety of injuries related to climate change if the Rule is vacated. EPA estimates that over the life of the program through 2055, the Rule will reduce climate-warming greenhouse gas emissions by roughly 1 billion metric tons. 89 Fed. Reg. 29,454; *see also id.* at 29,672. Petitioners' challenge to the Rule jeopardizes those vital emissions reductions.

Greenhouse gas emissions harm Movants' members by contributing to higher levels of ground-level ozone, or smog, because smog formation is influenced by air temperature and solar radiation level.⁹ Exposure to ozone is associated with significant adverse public health effects, including decreased lung function, respiratory-related hospitalizations, cardiac arrest, and premature death, especially for vulnerable populations such as children, older people, people who work and recreate outdoors, and people with underlying respiratory conditions.¹⁰

Movants have members who live or spend significant time in ozone nonattainment areas and other high-ozone areas,¹¹ and some of these members and their families are members of vulnerable populations.¹² Movants' members already

⁹ *See* Decl. of Veronica Southerland ¶ 10 (Environmental Defense Fund); Hill Decl. ¶ 16.

¹⁰ Southerland Decl. ¶¶ 12–20, 24; Hill Decl. ¶ 19; Wimmer Decl. ¶¶ 7, 9.

¹¹ Lustig ¶ 7, 10; Cobble Decl. ¶¶ 1, 7, 11; Witherspoon Decl. ¶¶ 6, 11.

¹² *See* Southerland Decl. ¶¶ 21–22 (describing vulnerable populations); Cobble Decl. ¶¶ 2–7; Witherspoon Decl. ¶¶ 11–12.

experience ozone-related health impacts, and these impacts will worsen if truck emissions standards are weakened.¹³ Some members are forced to limit their work, recreation, and other outdoor activities due to their concern about ozone-related health hazards, and these concerns and limitations would likewise increase if the standards are weakened.¹⁴

Climate change also increases the frequency and severity of wildfires near where many members live, by creating hotter, drier conditions more conducive to starting and exacerbating large fires.¹⁵ In addition, climate change heightens the frequency and intensity of extreme weather events, such as heat waves, storms and heavy downpours, floods, and droughts.¹⁶ Extreme weather events harm Movants' members in many ways: by increasing risk of injury, death, or property damage;¹⁷ decreasing property values;¹⁸ forcing members to take actions and expend resources to prevent and address these impacts in their communities;¹⁹ and limiting members' activities to avoid these and related hazards.²⁰

¹³ See Cobble Decl. ¶¶ 2–7, 11; Hill Decl. ¶¶ 8–10.

¹⁴ Casman Decl. ¶¶ 9–10; Hill Decl. ¶ 8; Cobble Decl. ¶¶ 7–8.

¹⁵ White Decl. ¶ 4.

¹⁶ Jeffrey Decl. ¶¶ 2, 12, 14; White Decl. ¶ 4; Tower ¶ 13.

¹⁷ Jeffrey Decl. ¶¶ 4–8; Tower Decl. ¶¶ 6, 9–11.

¹⁸ Jeffrey Decl. ¶ 8.

¹⁹ Jeffrey Decl. ¶ 4.

²⁰ Tower Decl. ¶ 4; Jeffrey Decl. ¶ 14; Khorana Decl. ¶¶ 12–13; Cobble Decl. ¶¶ 7–8.

An increase in climate-destabilizing pollution, compared to emissions levels under the Rule, also would impair the ability of Movants' members to recreate outdoors and appreciate and study nature. Climate change limits members' opportunities to travel and recreate outdoors by exacerbating air pollution²¹ and extreme weather.²² Additionally, climate change will limit members' ability to engage in winter recreation activities by reducing winter snowpack.²³ And it is increasingly limiting members' ability to visit, study, and appreciate natural ecosystems.²⁴

B. Other Air Pollution Injuries

If the Rule is vacated, Movants' members will suffer from increased exposure, compared to emissions levels under the Rule, to health-harming emissions of pollutants such as nitrogen oxides, volatile organic compounds, fine particulate matter, sulfur oxides, and hazardous air toxics.²⁵

EPA estimates that in 2055, the Rule will reduce truck emissions of nitrogen oxides, sulfur dioxide, and volatile organic compounds by 20%. 89 Fed. Reg. at 29,699. Nitrogen oxides and volatile organic compounds emissions are precursors

²¹ Witherspoon Decl. ¶¶ 9–10; Lustig Decl. ¶¶ 7, 10.

²² Jeffrey Decl. ¶¶ 14–15.

²³ Khorana Decl. ¶ 11.

²⁴ Tower Decl. ¶ 5.

²⁵ Casman Decl. ¶¶ 3, 11; Lustig Decl. ¶ 11; Barrera Decl. ¶ 11; Cobble Decl. ¶ 11; Hill Decl. ¶ 11; Ruiz Decl. ¶¶ 5–7.

to dangerous smog.²⁶ Fine particulate matter, often called “soot,” is associated with a host of adverse health effects, including decreased lung function, allergic responses, chronic obstructive pulmonary disease, lung cancer, and both acute and chronic cardiovascular conditions.²⁷ Children, whose lungs are still developing, are among those at highest risk from fine particulate matter pollution.²⁸ Additionally, EPA estimates that the Rule will reduce truck emissions of carcinogenic air toxics, including benzene (25% reduction by 2055), formaldehyde (15% reduction), and 1,3-butadiene (27% reduction). *Id.*

Vacating the Rule will harm Movants’ members by worsening pollution near roadways, including by increasing truck emissions of health-harming and toxic pollutants.²⁹ Harmful emissions from trucks contribute significantly to near-roadway pollution.³⁰ Movants have members who live or work, and whose children attend school, near major roadways, warehouses, seaports, and other freight corridors with significant truck traffic.³¹ Levels of nitrogen oxides, volatile organic compounds, particulate matter, sulfur oxides, and air toxics are typically elevated in nearby areas, causing harm to those living, working, and attending school

²⁶ Southerland Decl. ¶ 10.

²⁷ Southerland Decl. ¶¶ 28–29.

²⁸ Southerland Decl. ¶ 28.

²⁹ Southerland Decl. ¶¶ 49–52.

³⁰ Southerland Decl. ¶¶ 49–50; *see* Ruiz Decl. ¶¶ 4–5.

³¹ Casman Decl. ¶¶ 3, 11; Lustig Decl. ¶ 11; Barrera Decl. ¶ 11; Cobble Decl. ¶ 11; Hill Decl. ¶ 11; Ruiz Decl. ¶¶ 5–7.

nearby.³² This is especially true for people of color and people with low incomes, who are more likely to be living near roadways and who are disparately impacted by near-roadway pollution.³³ Absent the Rule, unmitigated near-roadway pollution will interfere with members' activities and harm the health of members and their families, especially those in the most vulnerable populations.³⁴

C. Business Injuries

Vacating the Rule would harm Movants' members by limiting their ability to sell and service lower-emitting vehicles. Under stronger truck emissions regulations like the Rule, automakers allocate more resources to selling lower-emitting vehicles, increasing the variety and quantity of lower-emission options available to customers.³⁵ Movants have members who specialize in selling and servicing electric and hybrid vehicles as well as charging equipment, and whose businesses will suffer if the Rule is vacated.³⁶

GROUNDNS FOR INTERVENTION

The Court should permit Movants to intervene in all petitions for review of the Rule. For the reasons stated above, Movants have an interest in upholding the

³² Southerland Decl. ¶¶ 49–54; *see* Ruiz Decl. ¶¶ 4–7.

³³ Southerland Decl. ¶¶ 8, 49, 53, 58–62.

³⁴ Southerland Decl. ¶¶ 8, 66; Cobble Decl. ¶¶ 2–3, 11; Barrera Decl. ¶ 11.

³⁵ Snower Decl. ¶ 6–7.

³⁶ Snower Decl. ¶¶ 5–6, 8–9.

Rule, and the disposition of these cases “may as a practical matter impair or impede [Movants’] ability to protect [their] interest[s].” Fed. R. Civ. P. 24(a)(2).

Further, Respondents may not “adequately represent” Movants’ interests. Fed. R. Civ. P. 24(a)(2); *see also Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (explaining that this “minimal” requirement is “not onerous” (quotations omitted)). Movants need not “predict now the specific instances,” *Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977), in which conflicts may arise; a “potential conflict,” *Dimond v. Dist. of Columbia*, 792 F.2d 179, 193 (D.C. Cir. 1986), or a “possibility of disparate interests,” *Costle*, 561 F.2d at 912, is sufficient. Movants can make the requisite “minimal” showing, *In re Brewer*, 863 F.3d 861, 873 (D.C. Cir. 2017), “that the representation of [their] interest may be inadequate,” *SEC v. Dresser Indus., Inc.*, 628 F.2d 1368, 1390 (D.C. Cir. 1980) (emphasis added). As this Court “often conclude[s],” “governmental entities do not adequately represent the interests of aspiring intervenors.” *Fund for Animals*, 322 F.3d at 736; *see also id.* at 736 n.9 (collecting cases); *Crossroads*, 788 F.3d at 321.

Whereas federal respondents’ “obligation is to represent the interests of the American people,” *Fund for Animals*, 322 F.3d at 736—including the truck manufacturing and fossil-fuel industries—Movants represent the more specific and distinct interests of their members in avoiding dangerous air pollution and increasing the availability of cleaner trucks. Thus, “examined from the perspective

of [governmental parties'] responsibilities," Movants' interests are not adequately represented. *Id.* at 737.³⁷

This Court has permitted several of the Movants here to intervene in support of respondent agencies in previous challenges to dangerous vehicle emissions, including greenhouse gases. *See, e.g.,* Order, *Texas, et al. v. EPA*, No. 22-1031 (D.C. Cir. Apr. 20, 2022), ECF No. 1943675 (granting intervention with respect to petition for review of greenhouse gas standards for light-duty vehicles); Order, *Competitive Enter. Inst. v. NHTSA*, Case No. 20-1145 (D.C. Cir. Oct. 8, 2020), ECF No. 1865427 (granting intervention with respect to petition for review of, *inter alia*, greenhouse gas standards for passenger vehicles and light trucks); Order, *Truck Trailer Mfrs. Ass'n, Inc. v. EPA*, Case No. 16-1430 (D.C. Cir. Mar. 10, 2017), ECF No. 1665427 (granting intervention with respect to petition for review of, *inter alia*, greenhouse gas standards for heavy-duty trailers). This motion likewise should be granted.

³⁷ In the alternative, Movants would readily meet the requirements for permissive intervention if they were applied here because: 1) Movants will not bring new claims but rather intend to offer defensive arguments, all of which necessarily share questions of law and fact with the underlying challenges; and 2) these cases are at a preliminary stage and no briefing schedule has been set, so this timely motion will not unduly delay or prejudice any other party. *Cf.* Fed. R. Civ. Proc. 24(b)(1)(B). Furthermore, Movants have a long history of advocating for strong federal standards to control pollution from the transportation sector and respectfully submit that the Court will benefit from their participation here.

CONCLUSION

This Court should grant Movants leave to intervene in support of Respondents in all cases challenging the Rule. *See* Cir. R. 15(b).

Respectfully submitted,

Dated: May 20, 2024

/s/ Andrew P. Su

Andrew P. Su
Vickie L. Patton
Peter Zalzal
Alice M. Henderson
Environmental Defense Fund
2060 Broadway, Ste. 300
Boulder, CO 80302
(303) 447-7236
asu@edf.org

Megan M. Herzog
Sean H. Donahue
Donahue, Goldberg & Herzog
1008 Pennsylvania Avenue, SE
Washington, DC 20003
(650) 353-8719
megan@donahuegoldberg.com

*Counsel for Environmental Defense
Fund*

/s/ Veronica Saltzman

Veronica Saltzman
Shaun A. Goho
Clean Air Task Force
114 State St. 6th Floor
Boston, MA 02109
(617) 624-0234
vsaltzman@catf.us

*Counsel for Alliance of Nurses for
Healthy Environments, American
Lung Association, American Public
Health Association, Appalachian
Mountain Club, and Clean Air
Council*

/s/ Robert Michaels

Robert Michaels
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601
(312) 795-3713
rmichaels@elpc.org

Rebecca Lowy
Environmental Law & Policy Center
740 15th St NW STE 700
Washington, D.C. 20005
(312) 673-6500
rlowy@elpc.org

*Counsel for Environmental Law &
Policy Center*

/s/ Allison Zieve

Allison Zieve
Public Citizen Litigation Group
1600 20th Street NW
Washington, DC 20009
(202) 588-1000
azieve@citizen.org

Counsel for Public Citizen, Inc.

/s/ Ian Fein

Ian Fein
Natural Resources Defense Council
111 Sutter Street, 21st Floor
San Francisco, CA 94104
(415) 875-6100
ifein@nrdc.org

Julia K. Forgie
Natural Resources Defense Council
1314 Second Street
Santa Monica, CA 90401
(310) 434-2300
jforgie@nrdc.org

*Counsel for Natural Resources
Defense Council, Inc.*

/s/ Sanjay Narayan

Sanjay Narayan
Sierra Club Environmental Law
Program
2101 Webster St., Ste. 1300
Oakland, CA 94612
(415) 977-5769
sanjay.narayan@sierraclub.org
Counsel for Sierra Club

Counsel for Sierra Club

CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, Movants Alliance of Nurses for Healthy Environments, American Lung Association, American Public Health Association, Appalachian Mountain Club, Clean Air Council, Environmental Defense Fund, Environmental Law & Policy Center, Natural Resources Defense Council, Public Citizen, and Sierra Club state that they are non-profit environmental and public health organizations. None of the organizations has any parent corporation or any publicly held corporation that owns 10% or more of its stock.

Dated: May 20, 2024

Megan M. Herzog
Sean H. Donahue
Donahue, Goldberg & Herzog
1008 Pennsylvania Avenue, SE
Washington, DC 20003
(650) 353-8719
megan@donahuegoldberg.com

/s/ Andrew P. Su
Andrew P. Su
Vickie L. Patton
Peter Zalzal
Alice M. Henderson
Environmental Defense Fund
2060 Broadway, Ste. 300
Boulder, CO 80302
(303) 447-7236
asu@edf.org

*Counsel for Environmental Defense
Fund*

/s/ Veronica Saltzman

Veronica Saltzman
Shaun A. Goho
Clean Air Task Force
114 State St. 6th Floor
Boston, MA 02109
(617) 624-0234
vsaltzman@catf.us

*Counsel for Alliance of Nurses for
Healthy Environments, American
Lung Association, American Public
Health Association, Appalachian
Mountain Club, and Clean Air
Council*

/s/ Robert Michaels

Robert Michaels
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601
(312) 795-3713
rmichaels@elpc.org

Rebecca Lowy
Environmental Law & Policy Center
740 15th St NW STE 700
Washington, D.C. 20005
(312) 673-6500
rlowy@elpc.org

*Counsel for Environmental Law &
Policy Center*

/s/ Allison Zieve

Allison Zieve
Public Citizen Litigation Group
1600 20th Street NW
Washington, DC 20009
(202) 588-1000
azieve@citizen.org

Counsel for Public Citizen, Inc.

/s/ Ian Fein

Ian Fein
Natural Resources Defense Council
111 Sutter Street, 21st Floor
San Francisco, CA 94104
(415) 875-6100
ifein@nrdc.org

Julia K. Forgie
Natural Resources Defense Council
1314 Second Street
Santa Monica, CA 90401
(310) 434-2300
jforgie@nrdc.org

*Counsel for Natural Resources
Defense Council, Inc.*

/s/ Sanjay Narayan

Sanjay Narayan
Sierra Club Environmental Law
Program
2101 Webster St., Ste. 1300
Oakland, CA 94612
(415) 977-5769
sanjay.narayan@sierraclub.org

Counsel for Sierra Club

CERTIFICATE OF PARTIES

Pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), I certify that the parties to this case are set forth below.

Petitioners: Petitioners in Case No. 24-1129 are the States of Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming, and the Commonwealths of Kentucky and Virginia.

Petitioners in Case No. 24-1133 are Warren Peterson, President of the Arizona State Senate; Ben Toma, Speaker of the Arizona House of Representatives; and the Arizona Trucking Association.

Respondents: Respondents are the U.S. Environmental Protection Agency (“EPA”) and Michael S. Regan, in his official capacity as Administrator of the EPA.

Intervenors: There are no other intervenors or movant-intervenors at the time of this filing.

Amici Curiae: There are no amici curiae at the time of this filing.

Dated: May 20, 2024

/s/ Andrew P. Su
Andrew P. Su

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion contains 3806 words and was composed in Times New Roman font, 14-point. The motion complies with all applicable type-volume and typeface requirements.

Dated: May 20, 2024

/s/ Andrew P. Su
Andrew P. Su

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document and attachments on all parties through the Court's electronic case filing (CM/ECF) system.

Dated: May 20, 2024

/s/ Andrew P. Su
Andrew P. Su